

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**Klaus Bartschat,**

Petitioners-Appellants,

v.

**Polk County Board of Review,**

Respondent-Appellee.

**ORDER**

**Docket No. 09-77-1208  
Parcel No. 312/03201-041-000**

On July 15, 2010, the above captioned appeal came on for consideration before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. Appellant Klaus Bartschat was self-represented and requested the appeal proceed without a hearing. He submitted evidence in support of his position. The Polk County Board of Review designated Assistant County Attorneys Ralph Marasco, Jr. and David Hibbard as its legal representatives and submitted evidence in support of its decision. The Appeal Board having reviewed the entire record, and being fully advised, finds:

***Findings of Fact***

Bartschat is the owner of a residentially classified, single-family residence located at 3714 132nd Circle, Urbandale, Iowa. The property is a two-story residence built in 2001. It has 3072 square feet of total living area with a full basement and 1032 square feet of living-quarter-quality basement finish. Other features include a three-car attached garage and a 280 square-foot deck area. The site is 0.547 acres.

The January 1, 2009, total assessment of Bartschat's property was \$477,800 allocated as follows: \$101,500 in land value and \$376,300 in improvement value.

Bartschat protested to the Board of Review asserting the property was assessed for more than authorized by law under Iowa Code Section 441.37(1)(b). He asserted the correct value of the property was \$445,000, and supplied five multiple listing service (MLS) sheets of recent or pending sales of properties he considered comparable to his property. The dates of sale for the properties were not reported on the MLS sheets. It is not clear if Bartschat had an oral hearing before the Board of Review. There was neither a request for an oral hearing nor a request for written consideration on the protest form. No Board minutes were supplied in the certified record. Ultimately, the Board of Review denied the protest.

Bartschat then appealed to this Board, plainly stating he does not believe his property is assessed at fair market value. Bartschat also claimed the assessment is not equitable as compared with assessments of other like property in the taxing district, under Iowa Code section 441.37(1)(a). Bartschat did not make an equity claim to the Board of Review. Therefore, we will only consider the claim of over-assessment. Bartschat seeks an assessment of \$430,000 representing \$91,350 in land value and \$338,650 in improvement value.

Bartschat again provided five MLS sheets of properties he considers as comparables. Four of the five properties are identified as having sold, however the date of those transactions is not reported on the sheets provided. We note, the appraiser summary in the certified record reports sale dates of three of the five properties submitted by Bartschat. Two of the reported sale dates occurred after the January 1, 2009, assessment date. Bartschat does not provide any commentary regarding similarities or differences in the properties he supplied; he does not indicate if one is more comparable than another, nor does he adjust the properties to account for any differences. Two of the comparables are located in Urbandale, like Bartschat's property; the remaining three properties are located in Clive and

Johnston, nearby suburbs. While we have no reason to discount the three properties located in different cities, there is no explanation provided as to why additional sales within Urbandale were not included for analysis.

Bartschat also offered a letter dated July 10, 2009, and one additional property address, along with its property record card for comparison. The property is in Bartschat's immediate subdivision and he can "see this property from our own." This property is located at 3724 131st Street, Urbandale and sold June 25, 2009, for \$455,000. He indicates in the June letter that this property is currently assessed for \$546,200, yet sold for 83.3% of this assessed value. We note this property is 470 square-feet smaller than Bartschat's property. There is insufficient information and analysis presented or analysis of this sale to determine if the transaction is typical of the market, or if after adjustments it supports Bartschat's claim of over-assessment. Additionally, the sale took place after the January 1, 2009 assessment date.

The Board of Review engaged Norman (Mike) Swaim of Swaim Appraisal Services to conduct an independent analysis to determine the value of the subject property as of January 1, 2009. Swaim completed an interior inspection of the home on March 16, 2010. He considered four properties as comparables, all located within Urbandale, and two within the immediate development. All four sales occurred between April and June 2008. Pre-adjusted sales prices range from \$460,000 to \$545,000. The adjusted value range is from \$459,200 to \$521,800. Swaim indicates the sale setting the lower end of this value range is located in an area with lower predominant values. Rather than apply a location adjustment, Swaim considered this fact within the reconciliation process and gave limited consideration to this sale. The sale that sets the upper end of the range was adjusted downward \$25,000 for superior features, and appears to have been included specifically due to being located roughly one block from the subject property. Swaim states in his appraisal that "there were only three sales in the immediate development in 2008, with an average sale price of \$509,166 and a median sale



price of \$495,000. The subject's 2009 assessment is less than both the average and median sales price of the sales in its subdivision and is supported by Swaim's valuation.

Swaim concludes a final opinion of value, as of January 1, 2009, of \$477,500. Swaim's opinion is \$300 less than the assessment, coupled with the analysis of sales in the immediate area previously discussed, we agree with Swaim's appraisal. We reject the statement in Swaim's appraisal that indicates Swaim believes the appraisal supports the assessment. Even though one may argue that it does, the final opinion of value of the subject, which is \$300 less than the assessment, is the most credible evidence of the market value of the property.

We find the Swaim appraisal to be the most credible evidence presented. We find a preponderance of the evidence demonstrates the subject is assessed for more than authorized by law. We, therefore, modify the assessment to reflect the appraisal value.

#### *Conclusions of Law*

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

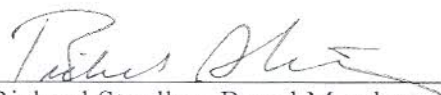
In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

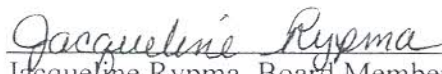
In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). The sales provided by the Bartschat were unadjusted, some were located in competing cities with no explanation as to why more proximate sales weren't considered, and at least three of the total six properties submitted sold after the January 1, 2009 assessment date. In short, Bartschat's own evidence alone failed to show the current assessed valuation is more than authorized by law. However, Swaim provides four comparables in his appraisal report, all located within Urbandale, and prior to the January 1, 2009 assessment date. Swaim adjusts the properties for differences compared to the subject, and reconciles to a conclusion. Additionally, Swaim analyzed sales within the subject's immediate development. Even though Swaim determined the current assessment is below the average and median sales, he concluded a final value of \$477,500.

In the opinion of the Appeal Board, a preponderance of the evidence supports the claim that the property is assessed for more than the value authorized by Iowa Code section 441.21. Therefore, we modify the January 1, 2009, assessment of the property located at 3714 132nd Circle, Urbandale, Iowa, as determined by the Polk County Board of Review to \$477,500.

THE APPEAL BOARD ORDERS the assessment of 3714 132<sup>nd</sup> Circle, Urbandale, Iowa, as of January 1, 2009, set by the Polk County Board of Review, is modified.

Dated this 1 day of September, 2010

  
Richard Stradley, Board Member

  
Jacqueline Rypma, Board Member

Cc:

Klaus Bartschat  
3714 132<sup>nd</sup> Circle  
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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>9-1</u> , 2010	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	